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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**MOISES REA
1528 W. Carlton Place
Santa Ana, CA 92704**

**Pharmacy Technician Registration No. TCH
152247**

Respondent.

Case No. 7289

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 18, 2022, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7289 against Moises Rea (Respondent) before the Board. (Accusation attached as Exhibit A.)
 2. On or about March 15, 2017, the Board issued Pharmacy Technician Registration No. TCH 152247 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 7289 and will expire on October 31, 2022, unless renewed.
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1 3. On or about May 20, 2022, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 7289, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 1528 W. Carlton Place, Santa Ana, CA 92704.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
9 124.

10 5. Government Code section 11506, subdivision (c) states, in pertinent part:

11 The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense . . . and the notice shall be deemed a specific denial of all
13 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
14 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
15 discretion may nevertheless grant a hearing.

16 6. The Board takes official notice of its records and the fact that Respondent failed to
17 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
18 waived his right to a hearing on the merits of Accusation No. 7289.

19 7. California Government Code section 11520, subdivision (a) states, in pertinent part:

20 If the respondent either fails to file a notice of defense . . . or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 finds that the charges and allegations in Accusation No. 7289, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation is \$129.79, and for
Enforcement is \$3,113.75, for total Board costs of \$3,243.54 as of June 21, 2022.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Moises Rea has subjected his
3 Pharmacy Technician Registration No. TCH 152247 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board is authorized to revoke Respondent's Pharmacy Technician Registration
6 based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Respondent has subjected his pharmacy technician registration to disciplinary action
9 under Code sections 490 and 4301, subdivision (l), because he was convicted of a crime that is
10 substantially related to the qualifications, functions, and duties of a registered pharmacy
11 technician.

12 b. Respondent has subjected his pharmacy technician registration to disciplinary action
13 under Code section 4301, subdivision (k), for unprofessional conduct, in that on January 11,
14 2021, Respondent was convicted of a misdemeanor involving the consumption of an alcoholic
15 beverage.

16 c. Respondent has subjected his pharmacy technician registration to disciplinary action
17 under Code section 4301, subdivision (h), for unprofessional conduct, in that on June 13, 2021,
18 Respondent used an alcoholic beverage to an extent or in a manner that was dangerous and
19 injurious to himself and the public when he operated a motor vehicle while impaired by alcohol.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 152247, issued to Respondent Moises Rea, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on October 5, 2022.

It is so ORDERED on September 6, 2022.



Seung W. Oh, Pharm.D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

83469053.DOCX
DOJ Matter ID:SD2022800896

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 RITA M. LANE
Deputy Attorney General
4 State Bar No. 171352
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 7289

14 **MOISES REA**
15 **1528 W. Carlton Place**
Santa Ana, CA 92704

ACCUSATION

16 **Pharmacy Technician Registration No. TCH**
17 **152247**

Respondent.

18
19 **PARTIES**

20 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On or about March 15, 2017, the Board issued Pharmacy Technician Registration
23 Number TCH 152247 to Moises Rea (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2022, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4300, subdivision (a), states, "Every license issued may be suspended or
6 revoked."

7 5. Code section 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license
9 by operation of law or by order or decision of the board or a court of law, the placement
10 of a license on a retired status, or the voluntary surrender of a license by a licensee shall
11 not deprive the board of jurisdiction to commence or proceed with any investigation
12 of, or action or disciplinary proceeding against, the licensee or to render a decision
13 suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Code section 482 states:

14 (a) Each board under this code shall develop criteria to evaluate the rehabilitation
15 of a person when doing either of the following:

16 (1) Considering the denial of a license by the board under Section 480.

17 (2) Considering suspension or revocation of a license under Section 490.

18 (b) Each board shall consider whether an applicant or licensee has made a
19 showing of rehabilitation if either of the following are met:

20 (1) The applicant or licensee has completed the criminal sentence at issue
21 without a violation of parole or probation.

22 (2) The board, applying its criteria for rehabilitation, finds that the applicant
23 is rehabilitated.

24 ...

25 (d) This section shall become operative on July 1, 2020.

26 7. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
27 license on the ground that the licensee has been convicted of a crime substantially related to the
28 qualifications, functions, or duties of the business or profession for which the license was issued.

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1 8. Code section 493 states:

2 (a) Notwithstanding any other law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or
4 revoke a license or otherwise take disciplinary action against a person who holds a
5 license, upon the ground that the applicant or the licensee has been convicted of a crime
substantially related to the qualifications, functions, and duties of the licensee in
question, the record of conviction of the crime shall be conclusive evidence of the fact
that the conviction occurred, but only of that fact.

6 (b) (1) Criteria for determining whether a crime is substantially related to the
7 qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

8 (A) The nature and gravity of the offense.

9 (B) The number of years elapsed since the date of the offense.

10 (C) The nature and duties of the profession.

11 (2) A board shall not categorically bar an applicant based solely on the type
12 of conviction without considering evidence of rehabilitation.

13 (c) As used in this section, “license” includes “certificate,” “permit,” “authority,”
14 and “registration.”

15 ...

16 (e) This section shall become operative on July 1, 2020.

17 9. Code section 4301 states:

18 The board shall take action against any holder of a license who is guilty of
19 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

20 ...

21 (h) The administering to oneself, of any controlled substance, or the use of any
22 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
or injurious to oneself, to a person holding a license under this chapter, or to any other
person or to the public, or to the extent that the use impairs the ability of the person to
conduct with safety to the public the practice authorized by the license.

23 ...

24 (k) The conviction of more than one misdemeanor or any felony involving the
25 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
or any combination of those substances.

26 (l) The conviction of a crime substantially related to the qualifications, functions,
27 and duties of a licensee under this chapter. The record of conviction of a violation of
Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
28 regulating controlled substances or of a violation of the statutes of this state regulating
controlled substances or dangerous drugs shall be conclusive evidence of

1 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
2 evidence only of the fact that the conviction occurred. The board may inquire into the
3 circumstances surrounding the commission of the crime, in order to fix the degree of
4 discipline or, in the case of a conviction not involving controlled substances or
5 dangerous drugs, to determine if the conviction is of an offense substantially related to
6 the qualifications, functions, and duties of a licensee under this chapter. A plea or
7 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
conviction within the meaning of this provision. The board may take action when the
time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
or when an order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
aside the verdict of guilty, or dismissing the accusation, information, or indictment.

8

8 **REGULATORY PROVISIONS**

9 10. California Code of Regulations, title 16, section 1769, subdivision (c), states:

10 When considering the suspension or revocation of a facility or a personal
11 license on the ground that the licensee has been convicted of a crime, the board will
12 consider whether the licensee made a showing of rehabilitation and is presently fit for
13 a license, if the licensee completed the criminal sentence at issue without a violation
14 of parole or probation. In making this determination, the board will consider the
15 criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the
16 criminal sentence at issue without a violation of parole or probation or the board
17 determines that the licensee did not make the showing of rehabilitation based on the
18 criteria in subdivisions (b)(1)(A) through (E), the board will apply the following
19 criteria in evaluating the licensee's rehabilitation:

15 (1) Nature and gravity of the act(s) or offenses.

16 (2) Total criminal record.

17 (3) The time that has elapsed since commission of the act(s) or offenses.

18 (4) Whether the licensee has complied with all terms of parole, probation,
19 restitution or any other sanctions lawfully imposed against the licensee.

20 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

21 (6) Evidence, if any, of rehabilitation submitted by the licensee, including as
22 provided in the board's Disciplinary Guidelines, identified in section 1760.

23 11. California Code of Regulations, title 16, section 1770, states:

24 (a) For the purpose of denial, suspension, or revocation of a personal or facility
25 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
26 Business and Professions Code, a crime, professional misconduct, or act shall be
27 considered substantially related to the qualifications, functions or duties of the
practice, profession, or occupation that may be performed under the license type
sought or held if to a substantial degree it evidences present or potential unfitness of
an applicant or licensee to perform the functions authorized by the license in a
manner consistent with the public health, safety, or welfare.

28 (b) In making the substantial relationship determination required under

subdivision (a) for a crime, the board will consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may be performed under the license type sought or held.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, those which:

...

(5) Involve a conviction for driving under the influence of drugs or alcohol.

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(January 11, 2022 Criminal Conviction for DUI on June 13, 2021)

13. Respondent has subjected his pharmacy technician registration to disciplinary action under Code sections 490 and 4301, subdivision (l), because he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. On or about January 11, 2022, in a criminal proceeding entitled *People of the State of California v. Moises Rea*, in Riverside County Superior Court, case number RIM2108645, Respondent plead guilty and was convicted of driving under the influence (DUI) of alcohol while having a blood alcohol concentration (BAC) of 0.08 percent or more (Veh. Code section 23152, subd. (b)), a misdemeanor. Respondent was also charged with an enhanced violation of having a BAC of 0.15 percent or more (Veh. Code section 23578).

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 152247, issued to Moises Rea;
2. Ordering Moises Rea to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/18/2022

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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